

Meeting Notes

Construction Underground Economy Advisory Committee (CUEAC)

July 13, 2017

10:00 am – 12:00 pm

Tumwater, WA

Attendees: Elizabeth Smith, Melissa McBride, Dean Simpson, Annette Taylor, Jane Nesbitt, Gary Schenk, Josie Cummings, Tom Kwieciak, Jim King, Terry Tilton, Noe Castillo, Neil Hartman, Josh Swanson, Evelyn Shapiro, Kerry Cox, Patrick Conner, Don Demulling, Gary Smith, Matthew Erlich

Via Phone: Debby Abe, Bob Battles, Sarah Mutnick, and Clarrisa Olivia

Agenda Item	Discussion
Opening Remarks Introductions	Elizabeth Smith- L&I <ul style="list-style-type: none">• Welcome, introductions• Overview of agenda and objectives. Annette Taylor-L&I <ul style="list-style-type: none">• Safety Topic: New Distracted Driving Law effective July 23
2017 Legislative Session Update	Tammy Fellin- L&I <ul style="list-style-type: none">• Capital budget has not been passed, hopeful for Thursday July 20th.• Expecting a 4th session, current session will on Thursday July 20th.• Primary ballots have been mailed as of yesterday.• Operation budget, three of five policy bills have passed.<ul style="list-style-type: none">▪ Dedicated funds plan bill passed- which allows permit fees to go in the dedicated fund instead of the general fund. Effective July 1st.• Gave acknowledgment to the room for support and dedication. Jim King–WA HVAC Industry Association <ul style="list-style-type: none">• Expressed support to the contractor registration.• Feels positive for good outcomes during session• When will 4th special session start?

2017 Legislative Session
Update
(Continued)

Tammy Fellin- L&I

- July 23rd is the beginning of the 4th special session.
- Budget – request to have authority–
 - Over USDOL apprenticeship grant.
 - Three Federal grants, 8 million dollars and funded requests for works comp. and apprentices.
 - To increase electrical inspectors by working with the Electrical Board, estimating 16.2 FTE across Washington State.

Patrick Connor- NFIB

- How do we get special accounts? What is the processing times?

Tammy Fellin- L&I

- Time is limited – decision packages are sent to OFM, who based on the workload decides how long it may take.
- Inspectors are in demand. Need to find inspectors willing to work at L&I and based on the location, L&I is trying their best to fill the slots. Factors for hiring include
 - Permits processing time is fundamental.
 - Collective bargaining agreement-possible increase salary to increase interest.
 - Vacancy rate should be addressed
 - Inspectors 10 leads and 17 technical

Jim King–WA HVAC Industry Association

- Stated there be some pressure on the hill, referencing to the Capital Budget.

Tammy Fellin- L&I

- In the Capital Budget, the department requested 12 million for several different programs, ex. AG cost, technology, and to rebuild the DOSH lab.

Tom Kwieciak-BIAW

- Looks forward to the budget passing- hopefully soon.

Patrick Connor- NFIB

- When should we expect to see the 2018 budget?

Tammy Fellin- L&I

- Ernie and Joel plan on meeting to go over a timeline for the budget probably the first week of August.
- Two bills concept around class B. elevator inspectors and DOSH safety and penalties, which will be followed closely due to language on Monday.

Overview, Current CUEAC
Scope and Structure

Work accomplished –
Problem statements and
solutions

Elizabeth Smith- L&I

- Instructed the room to view their packets specifically the Mission and purpose (Rainbow-colored) Chart
- One of the things we would like to address is our mission, purpose and the perceived problems.
- The room reviewed the mission, vision and values and strategic areas of focus
- The objectives are derived from previous problem statements
- The concepts relayed are to reflect deliverables with results. The priorities and objectives in the rainbow chart is to display the work we need to do. The chart crosswalks two sets of activities, there is already work in progress that is not shown in the chart.

Elizabeth Smith- L&I

- Our training is ongoing, and there will be a big training this fall. The goal is to have all staff in an area interpret and apply the policies consistently so that we all play the same sheet of music. We will continue to train our auditors' on the key elements of the test so they are consistent.
- After using it and testing the results, we determined that using IRS data is not as useful a data source as we had hoped. The newest IRS data available to the agency is two years old, while most audits are for the 1 year, 3 years audit are for significant violators.
- To align work around finding and addressing worker misclassification, quarterly meetings occur regarding DOL, ESD and DOR. External communications talk about worker misclassification, and we produce publications, trying to get information out to external how to clearly apply the test.

Gary Smith-Independent Business

- Recently he was searching for a contractor in the Verify tool on the website, and it did not have the data that he was searching for so he reported it to the department. Will the information that is available in BEAR connect with Verify?

Overview, Current CUEAC
Scope and Structure
(Continued)

Work accomplished –
Problem statements and
solutions

Elizabeth Smith- L&I

- Info about public complaints and referrals are in BEAR (available to agency staff) but not on verify (available to the public). The department is working to find the right amount balance of what is the information to the agency and not to the public.
- Looking for evolution technology that will work internally with separate systems working holistically.

Tom Kwieciak-BIAW

- Do you track usage of Verify?

Debby Abe- L&I

- Yes, the entire L&I website is tracked, looking up data

Annette Taylor-L&I

- Communication statistical data is being tracked. The Verify app has the most traffic on our website.

Jim King- WA HVAC Industry Association

- What type of people are using Verify? Is that being tracked?

Elizabeth Smith- L&I

- We are focused on user experience, and understanding who uses the website. We try to understand if consumers are aware and get what they need. L&I has a partner entity tracking user experience, maybe an idea is a survey online so if the website did not provide the consumer the information needed we can identify where some areas are lacking.
- Funding for a comprehensive look at our website, and a revamp based on customer experience and need, is one of the things that got funded in the legislative budget.

Patrick Connor- NFIB

- What happens if you get a local contractor that breaches their contract?
- Is that information reported to L&I?

Overview, Current CUEAC
Scope and Structure
(Continued)

Work accomplished –
Problem statements and
solutions

Elizabeth Smith- L&I

- Locality law, example King County has their own criteria that needs to be met; they can be higher and/or different.

Don DeMulling- Construction

- I would like to get these companies and individuals who are being debarred.
- We have to figure out a way to get them.

Jim King- WA HVAC Industry Association

- Verify – is there a complaint referral or escalation process?
- Hammering people down on the low business and big violators is not getting enough of a consequence. We need to work on the escalation process on significant violators and bad actors.
- Second element, coordinating enforcement. How do we put them (bad actors) on a specific list, those firms? Possibly new efforts? New unit? Law enforcement possible?

Elizabeth Smith- L&I

- We are continuing to work on compliance sweeps and getting feedback.
- We hit job sites to get boots on the ground to find violators and make referrals.
- Working on consumer outreach, showing new protect home, protect plumbing giving information at home shows.

Elizabeth Smith- L&I

- What does a problem look? Prevailing wage looks at specific laws to be better understood.
- Currently working on escalation strategies across numerous program areas.

Elizabeth Smith- L&I

- Having clear work and consistent in all investigations.
- Public Works and Contractor Portal can be transparent that they are hiring a firm.
- Let us focus on the current state and we will need your help.
- Additional elements, how should we move forward on membership? Business interest and labor advocates. ESD, LNI and DOR consumer interest?

<p>Membership, meeting frequency and location</p>	<ul style="list-style-type: none"> • We are currently meeting quarterly, should we move it semiannually? How about during session? Before April and start of January? • How do people feel about locations? • Should we change locations? We can move/rotate meeting locations. Ex. Tukwila and Tumwater.
<p>Group Discussion interest in changes for the future</p> <p>Is the current scope/structure/focus meeting needs?</p> <p>Interest in subcommittees?</p> <p>Other thoughts?</p>	<p>Elizabeth Smith- L&I</p> <ul style="list-style-type: none"> • What I want to hear from the group, is are we addressing your needs? • Is the group interested more on different topics? Is there interest in moving? • Let us open this discussion –talk about it. <p>Tom Kwieciak-BIAW</p> <ul style="list-style-type: none"> • Maybe receiving information before the meeting? • This is a good list, maybe more in the rainbow chart • Go through measurable in different ways • Staff updates • What is a measurable? • Maybe we should try something different – how do we know? <p>Elizabeth Smith- L&I</p> <ul style="list-style-type: none"> • Would a dashboard be useful? Something that has data and progress? <p>Tom Kwieciak-BIAW</p> <ul style="list-style-type: none"> • A dashboard could help with decision-making. • Possibility of a useful tool <p>Patrick Connor- NFIB</p> <ul style="list-style-type: none"> • We have had this same discussion • I agree with Tom decisions need to be made. • Maybe the rainbow chart is a roadmap of where we have been but we still don't have indicators, items to measure, common metrics to indicators. • No consistent documents returning back to us

Group Discussion interest in changes for the future (Continued)
Is the current scope/structure/focus meeting needs?
Interest in subcommittees?
Other thoughts?

- How many contractors has L&I cracked down on?
- Where is the escalation? No ongoing tracking?
- Unless we ask, we do not get any updates.
- How many have been prosecuted? Where does the funding for these go?
- How do we tie it together, so there is a clear picture?

Jim King- WA HVAC Industry Association

- I believe they have done a lot. I think you (L&I) has accomplished a lot.
- Small business continues to understand concepts with what work is.
- We have done a lot of work on the hill, we are reaching the point that requires legislation
- L&I is tackling the stuff that maybe if we were more involved we could have more influence on the hill.
- Biggest concern are fly by night contractors, how do we identify them?

Gary Smith-Independent Business

- I believe this spins into safety, lots of roofing contractors, you drive by and nothing is wrong, citation does not note who is there.

Elizabeth Smith- L&I

- Asking for more clarification. Please tell us more.

Gary Smith-Independent Business

- No one can identify them. We need to do something to legitimize people out there.

Evelyn Shapiro- NW Carpenters

- I wear many hats, director of education and enforcement.
- I believe education is critically vital vs enforcement.
- One of the concerns I have is that in the rainbow chart there is nothing that identifies education.
- I would like to know if L&I goes criminal or takes civil action. A formalized outcome would be helpful.

Group Discussion interest in changes for the future
(Continued)
Is the current scope/structure/focus meeting needs?
Interest in subcommittees?
Other thoughts?

Clarissa Olivia- BBB

- We have seen a significant change across the board with impersonators
- Verify has a contract we use it a lot on the website.
- We have the information, not the company. Current, services and products, claiming and impersonating others, we think they are phishing.
- There is a significant increase with contractor is not going to be excluded consumers lying to being a business sand using credentials, educate the public how to identify that they are who they are.

Jim King- WA HVAC Industry Association

- Could Verify the app have pictures of the contractors? Does it have that capability?

Elizabeth Smith- L&I

- Currently Verify does not have pictures of the contractors.

Elizabeth Smith- L&I

- The people out there do not want to be caught. It is our job to find the bad guys and how many there are.

Gary Smith-Independent Business

- We want you to catch the bad guys.
- The money goes somewhere

Don DeMulling- Construction

- Shares story regarding jobs not on the books.
- How does L&I recognize when things are off the books?
- There are different ways/tactics to catch the people.

Jim King- WA HVAC Industry Association

- Contractors report a job, workers talk to the people and not the contractors.

<p>Group Discussion interest in changes for the future (Continued) Is the current scope/structure/focus meeting needs? Interest in subcommittees? Other thoughts?</p>	<p>Don DeMulling- Construction</p> <ul style="list-style-type: none"> • How do we catch them? <p>Mission specific deter and stop. Elizabeth Smith- L&I</p> <ul style="list-style-type: none"> • We can build a measure, using a dashboard • Putting the leads out, that is one of the functions of DTU. Proactively finding other unregistered contractors that are advertising, ex. Craigslist • Measures to show with the data and results. • There is still more to be done, there is enough understanding of our existing authority <p>Terry Tilton -NW Carpenters</p> <ul style="list-style-type: none"> • Expressed thanks to everyone who worked for the legislation. • Sub groups, let us consider this avenue <p>Elizabeth Smith- L&I</p> <ul style="list-style-type: none"> • There is still more to be done, there is enough understanding of our existing authority. • Do you believe we are under resourcing or under authorizing? <p>Gary Smith-Independent Business</p> <ul style="list-style-type: none"> • Describes frustrations, first troop on there. Why is DOR not doing, sales tax lost? Huge amount of money if they got involved. • They are waiting for LNI to refer not DOR refer to LNI. Where is ESD and DOR? • Gives examples of roofing with legit permits <p>Elizabeth Smith- L&I</p> <ul style="list-style-type: none"> • Last time maybe if we did have focus on sub committees • Outreach, or resection, commercial public works, different ways to slice it. • Clear spit rededication and commercial objectives – outreach no technology more feedback. • Bring back dashboard. – looking at subcommittee how do we slice it? What is the objective? What are we going to accomplish it? Maybe something we can come back. Data and what we are doing let s pick up some focus results.
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	<p>Jim King- WA HVAC Industry Association</p> <ul style="list-style-type: none"> • Voices concern of subcommittee, small business guys , labor, splitting the committee • Downsize more utility leg ideas. Groups. PW is not my interest two subcommittee twice as many meetings <p>Evelyn Shapiro- NW Carpenters</p> <ul style="list-style-type: none"> • It does not have to be split. Both business and labor. Commercial reach out to contractors, employer associations, small business labor unions or residential so consumer would be more for residential.
<p>RoundTable Questions Next Steps</p>	<p>Elizabeth Smith- L&I</p> <ul style="list-style-type: none"> • Closing statement-expresses genuine appreciation and apologizing for running over the time. • Acknowledges that there is work to be done, and we can only get it right with your continued input and perspective. <p>Next meeting Nov. 2ndst.</p>